

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CITIBANK, N.A, AS TRUSTEE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:05-CV-40045-FDS
)	
JOHN P. PHELAN, WENDY M. PHELAN,)	
THE UNITED STATES OF AMERICA,)	
O'CALLAGHAN CONSTRUCTION)	
COMPANY, AND THE)	
COMMONWEALTH OF)	
MASSACHUSETTS' DEPARTMENT OF)	
REVENUE)	
)	
Defendants, and)	
)	
DAVID LA BRIE,)	
)	
Defendant and Cross-claimant)	

DEFAULT JUDGMENT


Now, upon application of Cross-claimant David La Brie and an affidavit demonstrating that Cross-claim Defendants Wendy M. Phelan and O'Callaghan Construction Company were properly served with the cross-claim and have failed to file a timely answer, and that the Cross-claim Defendants Wendy M. Phelan and O'Callaghan Construction Company were not infants or incompetent persons or in the military service of the United States, and their defaults as to the cross-claim having been entered, it is hereby:

ORDERED, ADJUDGED AND DECREED

That the Cross-claimant's Motion for Entry of Default Judgments against Cross-Claim Defendants Wendy M. Phelan and O'Callaghan Construction Company shall be granted; and Defendants Wendy M. Phelan and O'Callaghan Construction Company's interest in the surplus


foreclosure funds shall be deemed inferior to that of Defendant David La Brie's interest as that interest is constituted by whatever monetary sum his interest amounts to at the time of disbursal of the funds in this case.

SO ORDERED:



Saylor, D.J.
9.8.05

ENTERED:



Clerk

Respectfully submitted,

/s/ William M. Palmer

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CROSS-CLAIMANT DAVID LA BRIE